

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.04.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.8532 of 2018  
and  
W.M.P.No.10475 of 2018

Raeshmi.V.,  
Minor, represented by  
her father and natural guardian Venkatraman .. Petitioner

Vs.

1. The Secretary,  
The Department of School Education,  
Secretariat, Fort St.George,  
Kamarajar Road, Chennai.
2. The Director,  
The Department of School Education,  
DPI Buildings,  
Nungambakkam, Chennai-600 006.
3. The Central Board of Secondary Education (CBSE),  
Represented by its Assistant Secretary,  
Regional Office:  
New No.3, Old No.1630-A, J-Block,  
Anna Nagar West,  
16th Main Road, Chennai-600 040.
4. The Principal,  
Kendriya Vidyalaya,  
Air Force Station,  
Sulur, Coimbatore District-641 401. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the fourth respondent to give admission for the petitioner's daughter, named Raeshmi.V., for the Class of 1st Standard for the academic year 2018-2019 based on her Application Form Enrolment ID No.280148988191, dated 18.03.2018.

For petitioner : Mr.S.Silambu Selvan  
For respondents : Mrs.V.Annalakshmi, Govt. Advocate  
for RR-1 and 2  
Mr.G.Nagarajan for R-3  
Mr.M.Vaidyanathan for R-4

#### ORDER

The petitioner has come forward with the above Writ Petition praying for issuance of a Writ of Mandamus to direct the fourth respondent to give admission for the petitioner's daughter, named Raeshmi.V., for the Class of 1st Standard for the academic year 2018-2019 based on her Application Form Enrolment No.280148988191, dated 18.03.2018.

2. It is the case of the petitioner that he is the father of the student, namely daughter seeking for I Std. admission in Kendriya Vidyalaya and she was born on 01.03.2013. The petitioner is working as Marketing Manager in a private concern, namely Sri Hari Polymers, Karanampettai, Coimbatore District and that his wife has completed Ph.D. and working as an Associate Professor in a private college. The petitioner applied on 18.03.2018 for admission of his daughter in I Std. and the admission was shown in the provisional select list on 27.03.2018 and her name was found in Sl.No.44. She was called for admission on 03.04.2018 and that the School has denied admission to the petitioner's daughter on the ground that they are residing more than 5 kms. radius away from the School. According to the petitioner, the petitioner was residing in his own house which is 7 kms. away and that after rejection of admission, they have sifted to another house which is of 3 kms. radius from the School. Learned counsel for the petitioner contended that in similar situation, a Division Bench of this Court in W.A.No.678 of 2017, decided on 30.06.2017, has granted the relief to the child and that admission to nursery schools, has become an annual affair and finding that a growing bud should not be denied the admission on the ground of distance being in excess marginal and taking cognizance of the fact that the first respondent's father therein, has got his residence relocated within the radius of 3 Kms., which is well within the distance criterion fixed by the School in that case, and based on that, the appellant-School in that case granted provisional selection of the first respondent therein, which deserved to be confirmed. Further, according to the learned counsel for the petitioner, such direction has been issued against the same School of different branch. Hence the petitioner's daughter will have to be admitted in the School in I Std. for the academic year 2018-2019 based on the provisional selection.

3. The third respondent has filed counter affidavit stating that it is an issue to be resolved between the Kendriya Vidyalaya and the petitioner and that the CBSE has no role to pay in the matter of admission in the present case on hand.

4. Even though no counter has been filed by the fourth respondent-Kendriya Vidyalaya, learned counsel for the fourth respondent pointed out that in the on-line application form of the child, there were incorrect details and with regard to the income group, it is stated therein that the parents do not belong to low income group. In the caste category column of the application form, it is mentioned as OBC (non-creamy layer) and the distance of the School from the residence is shown as 7 Kms. and according to the learned counsel for the fourth respondent, the distance is more than 16 Kms. The mother of the candidate is shown to be employed as Assistant Professor in K.G.College of Health Science, and the father's avocation is shown as business. As incorrect details are furnished in the application form and that the Community Certificate produced by the petitioner in the additional typed set of papers filed along with the Writ Petition, shows that the student belongs to Backward Community and not OBC (non-creamy layer) layer as pointed out in page 1 of the application form found in typed set of papers filed by the petitioner. It is further submitted that the case which was referred to by the petitioner pertains to a Tailor and in any event, apart from distance, in this case, the other particulars are incorrect, and hence, the petitioner will not be entitled to any relief.

5. Heard the arguments of the learned counsel for the parties and perused the pleadings.

6. It is no doubt true that the distance may not be a factor to be considered for rejection. As the parents must be given an opportunity to shift the residence, they may get admission for their ward in the School. Moreover, in the present case on hand, the Community Certificate has been given and the community has not been correctly stated. That apart, even though the petitioner has produced the Income Certificate produced by K.G.College of Health Science to show that the mother is working as Associate Professor in the said institution, but he has not produced the income tax returns said to have been filed or whether any Nil return has been produced. The petitioner has also not produced the Pan Card of the Income Tax Department for verification as he thought that if it is probed for verification, it may turn adverse to the petitioner. It has been stated that the petitioner's family income was shown as Rs.84,000/- p.a. and the Income Certificate has been issued by the Deputy Tahsildar to that effect, but it is not known as to what are the documents which have been verified by him for



issuance of such Certificate and whether the petitioner has disclosed the fact that the said Certificate is required for production before this Court. Moreover, there is no evidence or any order to show that on account of the distance, the student's candidature has been rejected. If the petitioner had informed the authority, certainly the Deputy Tahsildar would not have issued such certificate. In any event, as the petitioner has come forward with incorrect details and with unclean hands, he is not entitled to the relief sought for in this Writ Petition, as per the decisions reported in 1993 (1) MLJ 26 = 1992 Writ L.R. 716 (Madras High Court) (V.Tamil Selvan Vs. The State of Tamil Nadu), 1983 (3) SCC 333 = AIR 1983 SC 622 = MANU/SC/0054/1983 (Dr.Vijay Kumar Kathuria and another Vs. State of Haryana and others) and 1994 (1) LW 21 (SC) = 1994 (1) SCC 1 (S.P.Chengalvaraya Naidu Vs. Jagannath).

7. The petitioner has stated the distance as 7 Kms. from the School, when admittedly, when admittedly, the distance is more than 16 Kms. and he should have disclosed the truth and informed the School that he will find the residence within radius prescribed by them and get admission. It has been mentioned that the distance of the School from the resident is 7 kms., but the distance shown in the on-line application form is 16-1/2 kms., which is more than 10 kms. from the School.

8. Thus, as stated above, there are incorrect particulars in the on-line application form of the child and in that, it has been mentioned as if the parents do not belong to low income group, and in the community column, it is mentioned as OBC (non-creamy layer). Further, it has been mentioned in the application form that the distance of school from the residence is 7 kms., but the distance shown in the form is 16-1/2 Kms., which is more than 10 Kms. from the School. Moreover, the mother is shown to have been employed as Associate Professor in K.G.College of Health Science and the father's occupation is shown as business, but in the typed set of papers filed along with the writ petition, the father's employer certificate is shown as having been employed in Sri Hari Polymers as Marketing Manager.

9. That apart, the parents should have disclosed the income particulars of the mother, including the income tax returns, etc. As the petitioner stated that he has got the Pan card, there is no reason as to why the petitioner has not produced salary certificate before this Court, when the Provident Fund deduction is made.

10 Barring the distance, on other aspects also, namely with regard to the incorrect details and that with regard to caste category in the application mentioning as OBC (non-creamy

layer), the petitioner is not entitled to the relief sought for in this Writ Petition.

11. The decision relied on by the learned counsel for the petitioner in W.A.No.678 of 2017, dated 30.06.2017, is distinguishable on facts and it has to be applied based on the present facts, as held by the Supreme Court in the decision reported in 2002 (3) SCC 533 (Padma Sundara Rao Vs. State of T.N.), wherein the Apex Court has held as follows:

"9. Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. There is always peril in treating the words of a speech or judgment as though they are words in a legislative enactment, and it is to be remembered that judicial utterances are made in the setting of the facts of a particular case, said Lord Morris in *Herrington Vs. British Railways Board* (1972 (2) WLR 537 = 1972 AC 877 (HL) ). Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases."

12. Moreover, as relied on by the learned counsel for the petitioner, with regard to the distance from the School and the residence, as per the Guidelines for Admissions in Kendriya Vidyalaya (2018-19) issued by Kendriya Vidyalaya Sangathan, the proof of residence has to be produced by all the applicants. It is no doubt true that in the said guidelines, it is stated that the admission cannot be denied due to non-submission of proof of residence and a self-declaration in writing from the parent about distance may also be accepted to this effect. But in the case on hand, the applicant had shown incorrect particulars in the on-line application form, as discussed above, which itself shows that the petitioner is not entitled to the relief sought for in the Writ Petition.

13. Hence, for the reasons stated above, the Writ Petition is dismissed. No costs. Consequently, W.M.P. is closed.

Sd/-  
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

CS

To

1. The Secretary,  
The Department of School Education,  
Secretariat, Fort St.George,  
Kamarajar Road, Chennai.
  2. The Director,  
The Department of School Education,  
DPI Buildings,  
Nungambakkam, Chennai-600 006.
  3. The Central Board of Secondary Education (CBSE),  
Represented by its Assistant Secretary,  
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16th Main Road, Chennai-600 040.
  4. The Principal,  
Kendriya Vidyalaya,  
Air Force Station,  
Sulur, Coimbatore District-641 401.
- +1cc to the Government Pleader, S.R.No.31265  
+1cc to Mr.S.SILAMBUSELVAN, Advocate, S.R.No. 30505  
+1cc to Mr.G.NAGARAJAN, Advocate, S.R.No.30421  
+1cc to Mr.M.VAIDIYANATHAN, Advocate, S.R.No.30231

W.P.No.8532 of 2018

SSV(CO)  
TR(17/05/2018)

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